

## Rural Utilities Service, USDA

## § 1738.2

SOURCE: 68 FR 4687, Jan. 30, 2003, unless otherwise noted

### Subpart A—General

#### § 1738.1 General statement.

(a) This part sets forth the general policies, types of loans and loan guarantees, and program requirements under the Rural Broadband Access Loan and Loan Guarantee Program to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

(b) Additional information regarding the Rural Broadband Access Loan and Loan Guarantee Program can be found in RUS Bulletin 1738-1, "Rural Broadband Access Loan and Loan Guarantee Application Guide" and RUS Bulletin 1738-2, "Rural Broadband Access Loan and Loan Guarantee Advance and Construction Procedures Guide".

(c) When reference is made in this part to existing RUS regulations, an applicant or borrower under this part will follow the requirements applicable to an RUS telecommunications borrower.

#### § 1738.2 Definitions.

As used in this part:

*Acquisition* means the purchase of operating broadband facilities or another broadband system whether by acquiring broadband facilities or equipment, or majority stock interest of one or more organizations.

*Administrator* means the Administrator of the Rural Utilities Service, or his or her designee.

*Affiliate* means an organization that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the applicant.

*Applicant* means an eligible entity requesting approval of a loan or loan guarantee under this part.

*Borrower* means any organization that has an outstanding loan made or guaranteed by RUS.

*Broadband pilot program* means that program implemented through Notices of Funds Availability, published in the

FEDERAL REGISTER at 65 FR 75920 and at 67 FR 3140.

*Broadband service* means any technology identified by the Administrator as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video. To qualify as broadband, the project must offer data transmission services, and may provide voice, graphics, video, and other services. At the beginning of each fiscal year, RUS will publish a notice in the FEDERAL REGISTER defining the minimum rate-of-data transmission criteria to qualify as broadband service during that fiscal year's funding period.

*Composite economic life* means the weighted (by dollar amount of each class of facility in the loan) average economic life of all classes of facilities in the loan.

*Economic life* means the estimated useful service life of an asset as determined by RUS.

*Eligible rural community* means any incorporated or unincorporated place in the United States, its territories and insular possessions (including any area within the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) that:

(1) Has no more than 20,000 inhabitants based on the most recent available population statistics of the Bureau of the Census and

(2) Is not located in an area designated as a standard metropolitan statistical area. For purposes of this part, "place" may include any area located outside the boundaries of any incorporated or unincorporated city, village or borough having a population exceeding 20,000 that is not within an area designated as a standard metropolitan statistical area.

*Feasibility study* means the pro forma financial analysis prepared by the applicant, and acceptable to RUS, to determine the economic feasibility of a loan.

*Fiscal year* means the fiscal year of the federal government.

*Forecast period* means the time period beginning on the date (base date) of the applicant's balance sheet used in preparing the feasibility study and ending on a date equal to the base date plus

the number of years estimated in the feasibility study for completion of the construction covered by the loan. Feasibility projections are usually for 5 years.

*Initial loan* means the first loan made under section 601 of the RE Act to each eligible entity.

*Interim construction* means the construction, improvement, or acquisition of facilities and equipment prior to loan approval and release of funds.

*Interim financing* means funding for a project that RUS has acknowledged could be included in a loan prior to approving the loan.

*Loan* means any loan made or guaranteed under this part by RUS, unless otherwise noted.

*Loan contract* means the loan agreement between RUS and the borrower, including all amendments thereto.

*Loan documents* means the loan contract, note, and security instrument between the borrower and RUS and any associated document pertaining to a loan.

*Loan funds* means funds provided pursuant to a loan made or guaranteed under this part by RUS.

*Mortgage* means the security document between the borrower, as debtor, and RUS, as creditor, including any amendments and supplements thereto.

*Private loan guarantee* means a loan made by a non-Federal lender and guaranteed by RUS.

*RE Act* means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

*Release of funds* means a determination by RUS that an applicant has complied with all of the conditions prerequisite to the advance of funds as set forth in the loan contract.

*RUS* means the Rural Utilities Service, an agency of the United States Department of Agriculture, and successor to the Rural Electrification Administration.

*RUS telecommunications borrower* means any organization that has an outstanding telecommunications loan made or guaranteed by RUS under Titles II, III, or IV of the RE Act.

*Service area* means the geographical area within which the applicant proposes to make broadband service avail-

able with a loan provided under this part.

*Telecommunications* means the transmission and reception of voice, data, sounds, signals, pictures, writings, or signs of all kinds, by wire, fiber, radio, light, or other visual or electromagnetic means.

*TIER* means Times Interest Earned Ratio. TIER is the ratio of an applicant's net income (after taxes) plus interest expense, all divided by interest expense. For the purpose of this calculation, all amounts will be annual figures and interest expense will include only interest on debt with a maturity greater than one year.

§§ 1738.3–1738.9 [Reserved]

## Subpart B—Loan Purposes and Basic Policies

### § 1738.10 General.

(a) The purpose of the Rural Broadband Access Loan and Loan Guarantee Program is to provide loans to provide funds, on a technology neutral basis, for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

(b) The proceeds of any loan made under this part may be used to refinance an outstanding obligation on another telecommunications loan made or guaranteed under the RE Act if the use of the proceeds will further the construction, improvement, or acquisition of facilities in eligible rural communities.

(1) Funds used for refinancing may not constitute more than 40 percent of the loan. The remainder of the proceeds shall only be used for the construction or improvement of facilities and equipment for broadband services.

(2) In calculating the expected composite economic life under § 1738.41 of this part, the economic life of any loan refinanced under this section will be based on the remaining economic life of the assets underlying that loan.

(c) RUS will not assess fees or charges for any loan made under this part.